

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO.3385 OF 2004

Rajesh Satyanarayan Sharma & Ors. .. Applicants.
Vs.
State of Maharashtra .. Respondent.

Mr.S.V.Marwadi for the applicants.
Mr.V.B.Konde-Deshmukh APP for the respondent.

CORAM : D.B.BHOSALE, J.

DATED : 23RD AUGUST, 2004

P.C.:

. Heard Mr.Marwadi, learned counsel for the applicants and Mr.Konde-Deshmukh, learned A.P.P. for the respondent.

2. This application under section 438 of Criminal Procedure Code is filed in C.R.No.199/2004 registered at Mulund (West) police station under section 498, 306 read with section 34 of Indian Penal Code.

3. At the outset Mr.Marwadi, learned counsel for the applicants, on instructions, states that he is not pressing this application for applicant no.1 and that applicant no.1 is prepared to surrender.

He further submits that applicant no.1 be given liberty to apply for bail after his police custody gets over. The prayer was not seriously opposed by Mr.Konde-Deshmukh, learned A.P.P. In the circumstances the application of applicant no.1 is rejected as not pressed. Liberty to the applicant to surrender before the concerned investigating officer tomorrow i.e. 24.8.2004 at 10.30 a.m. It would be open to the applicant to apply for bail after the police custody, if any, gets over. If such application is filed, the Sessions Court shall decide the application in accordance with law and uninfluenced by the liberty granted by this order.

4. In so far as application of applicant nos.2 and 3 is concerned, at this stage, prima facie, I find that applicant no.1 alone was responsible for the death of the deceased. It is clear from the material placed before me that there were differences between applicant no.1 and the deceased since the deceased was suspecting that applicant no.1 had illicit relations with his friend's wife and that he was suffering from some sexually transmitted disease which she in turn was infected with. I am satisfied that custodial interrogation of applicant nos.2 and 3 would not be necessary.

In view of this I am inclined to grant their application for anticipatory bail.

. Applicant nos.2 and 3 are directed to be enlarged on bail, in the event of their arrest, in C.R.No.199/2004 registered at Mulund (West) police station on their furnishing a personal bond of Rs.10,000/- each with one or two sureties of the like amount to the satisfaction of the Station Officer of the concerned police station, subject to the condition that applicant no.2 shall report the concerned police station for a period of seven days between 10 am and 11 am and thereafter as and when called for interrogation. Applicant No.3 shall report the concerned police station as and when called for by the police.

. While passing this order, I shall not be understood to have expressed any opinion on merits of the case. The trial court will deal with the case uninfluenced by the observations made in this order.

. The application is disposed of.

(D.B.Bhosale, J.)